



Proposed Rule Changes

Rule Change Hearing Notice

The staff of the Drycleaner Environmental Response Program (DCERP) Board, Tennessee Department of Environment & Conservation will be conducting a public hearing to consider the amendments of rules pursuant to Tennessee Code Annotated 68-217-101 et. seq., the "Tennessee Drycleaner's Environmental Response Act".

The purpose of the hearing is to receive public comments regarding proposed rule amendments to Rule 1200-1-17, Drycleaner Environmental Response Program.

The hearing will take place in the 17th floor Conference Room (Room A) of the L&C Tower located at 401 Church Street, Nashville, Tennessee from 6:00PM - 8:00PM Central Time on Wednesday, March 29th. Written comments will be considered if received by the close of business, in the office of Steve Goins, April 5, 2006, at the Division of Remediation, 4th Floor, L&C Annex, 401 Church Street, Nashville, TN 37243.

Summary of Proposed Amendments

Proposed rule amendment number **1 creates a definition for applicant**. Currently the rules include numerous references to PEPs (potentially eligible party). The rules did not make a distinction between those parties who are potentially eligible and those that have actually applied to participate in the program for site investigation/cleanup. A PEP is already defined in rules as an active drycleaning facility owner or operator, or current or prior abandoned facility owner or operator, or in-state wholesale distribution facility owner or operator, or impacted third party who is potentially eligible to participate in the drycleaner environmental response program and Fund.

The following proposed rule amendments simply replaces the word "PEP" with the word "applicant": numbers; 7 through 16, 19 through 23, 25 through 39.

Proposed rule amendment number **2 adds additional requirements for a facility to receive the annual Certificate of Registration to include substantial compliance with program rules including Best Management Practices (BMPs) and timely submittal of quarterly solvent reports. In other words the program can deny issuance of a Certificate of Registration to a facility if they don't submit quarterly solvent reports and/or are not complying with BMPs**. The purpose of BMPs is to prevent drycleaning solvent releases to the environment. Please refer to Rule 1200-1-17-.04 or your compliance calendar for a detailed description of BMPs. Program BMPs include the following:

1. Compliance with existing regulations (perc air rules)
2. Waste management (zero discharge of waste, hazardous waste transporter, Treatment Storage and Disposal Facilities)
3. Materials storage (MSDS, labeled, closed containers)

4. Management of releases of drycleaning solvent (immediately contained and recovered)
5. Certification (Certified Environmental Drycleaner)
6. Solvent delivery systems (closed loop direct coupled delivery after October 2000)
7. Containment systems (machine, solvent storage areas, waste storage areas)
8. Flooring integrity (seal floor, drains)
9. Transfer machines (room enclosure, negative pressure inside enclosure)

Proposed rule amendment number **3 removes the Certified Environmental Drycleaner (CED) from the BMPs**. Currently a facility must have a CED to receive a Certificate of Registration if the facility began operations after October 15, 1998. In addition a CED is required for active facilities to be eligible for reimbursement of environmental investigation/cleanup expenses. The staff and Board are spending a considerable amount of time and resources dealing with CED related issues. The staff believes tying BMP compliance to annual registration (see no. 2 above) will be more effective and protective of the environment while reducing the resources needed to monitor CED compliance.

Proposed rule amendment number 4 just renumbers rule paragraphs after deleting the CED requirement.

Proposed rule amendment number 5 removes from the rules certain requirements for perc transfer machines including room enclosures designed to maintain a negative pressure and venting air from the enclosure outside of the plant through a carbon adsorbed, or equivalent vapor recovery system separate from process vapor recovery systems. Perc transfer machine requirements are still in force in other regulations

CONTINUED ON PAGE 2

(Rule 1200-3-31-13, Perchloroethylene Air Emission Standards for Dry Cleaning Facilities).

Proposed rule amendment number 6 provides a more descriptive rule heading of rule section .05 by replacing "Program Qualifications and Procedures for the Tennessee Drycleaner Environmental Response Program" with "Qualifications and Procedures

for Environmental Response Activities".

Proposed rule amendment numbers 17, 18 and 24 remove certain site prioritization language and classifications which have not been utilized and are no longer necessary with the programs new site ranking system. The site ranking system gives a numeric ranking based on risk for each site that has

entered the program for environmental investigation/cleanup.

If you would like a complete copy of the proposed rule amendments or if you have any question about the amendments or the public hearing please contact Nancy Boisvert at 615.253.3876.

Cleanup at Memphis Area Drycleaner Site

Removal Action and treatment of residual contamination with a mixture of oil, vitamins and lactate

A removal of approximately 410 square feet of solvent contaminated soils occurred in the service drive on the east side of the former drycleaners in Memphis. Excavated soils were containerized in roll-off containers and disposed of at the Waste Management landfill in Tunica, MS.

Degradation enhancing amendments were injected at the site to enhance degradation of residual PCE, TCE, and other daughter products in groundwater. The enhancement product was a mixture of emulsified oil, vitamin B12, and lactate. Approximately 35 gallons of liquid 60% sodium lactate was poured into the excavation area. The biodegradation enhancement materials were then worked into the base of the excavation with the excavator bucket. Water was also added to promote mobility of the enhancement materials. An additional 20 gallons of the lactate mixture was injected into the area of monitoring well 2, followed by water, to further promote ongoing aquifer bioremediation.

Clean backfill was used to fill the excavation back to original grade and the area was repaved.



Excavation of soil



Area is filled with clean soil and repaved



Excavation is prepared for the injection of biodegradation amendments (oil, sodium lactate, vitamins and water)

WHAT IS DCERP AND WHAT DOES IT DO?

Background

On June 13, 1995, the Tennessee General Assembly enacted a law establishing the Drycleaner Environmental Response Program (DCERP). The Act establishes a “fund” made up of annual registration fees collected from the owners/operators of drycleaning facilities and surcharges on drycleaning solvent.

Program Purpose

The purpose of the program is to provide funding and oversight for the response portion of the program, which includes investigation and where necessary remediation (cleanup) of impacted sites (contaminated with solvents from drycleaning operations). While annual facility registration of active drycleaning facilities is mandatory, participation in the environmental response portion of the program is voluntary. There are industry estimates that as many as 80% of drycleaning facilities have some degree of contamination.

Statutory Preemption - Liability Protection

The statute (TCA 68-217-111) provides liability protection to eligible parties for any release under any other law or for third party claims, if the site is fund eligible and is in material compliance with the Board's requirements. The liability protection begins when a site is accepted into the response (cleanup) portion of the program and ends when DCERP determines the response is complete. The liability protection does not apply to personal injury claims or liability under federal laws.

What Are The Program Fees?

Facility Registration

The mandatory annual registration fees are due on or before October 31st of each year and are paid by active drycleaning facilities based on the number of gallons of solvent purchased during the preceding year. The total for the year is

calculated from July 1 of the previous year to June 30 of the current calendar year.

Abandoned facilities can also be registered. An abandoned facility means any real property, premises, or individual leasehold space on which a drycleaning facility formerly operated. The current or prior property owners or current or prior operators of the facility can register the site individually or jointly.

Solvent Purchases

Solvent surcharge fees are collected by drycleaning solvent suppliers. The suppliers report sales and remit surcharge fees on a quarterly basis to DCERP. The funds collected from registration and solvent surcharge fees fund all program cleanup activity.

How Do I Apply For Response (Cleanup) Activities?

First fill out an application for the response program. A drycleaner approved contractor must be selected. After receipt & approval of the application a Facility Inspection is conducted. At this step compliance with Best Management Practices (BMPs) is determined. The program provides facilities an “opportunity to cure” BMP deficiencies, which impact Fund eligibility. To receive an application call 615-532-0900 or download the form from the web at www.state.tn.us/environment/permits/dcerp

Response Fund Eligibility Requirements

The applicant must meet the definition of a current or prior owner or operator of an active or abandoned drycleaning facility, in-state wholesale distribution facility, or an impacted third party.

The facility must be registered with the program and have paid all applicable fees, surcharges, penalties, and interest.

The facility must implement applicable Best Management Practices (BMPs) and must comply with all other requirements of the rules and Act.

What Activities does the Program Fund?

The Fund will provide reimbursement for the reasonable cost of Department-authorized Response Actions; inspection, investigation, and remediation, exclusive of interest, at sites accepted into the program. The applicant is responsible for accepting responsibility for a percentage of costs associated with each request for reimbursement.

Reimbursement for DCERP-Approved Actions

DCERP can authorize reimbursement of up to \$200,000 per year for eligible costs toward DCERP approved response activities from any individual facility. In order for response costs to be reimbursable a Drycleaner Approved Contractor (DCAC) must perform the work and the work plan and associated cost proposal must have received written pre-approval from DCERP.

How Are Cleanup Activities Prioritized?

Facility/Site Ranking System

DCERP Funds will be obligated and reimbursed to applicants for eligible response expenses as Funds become available pursuant to the DCERP's priority ranking system for sites. The ranking system ensures that sites, which pose relatively greater risks to human health and the environment, are approved for response actions prior to DCERP's approval of actions at sites, which pose lesser risks.

What Is A Drycleaner Approved Contractor?

Program rules identify the requirements environmental consultants/contractor's must meet in order to be recognized as a Dry Cleaner Approved Contractor (DCAC). DCERP evaluates their qualifications and maintains a list of approved contractors. DCAC's enter into a contractual relationship with the applicant and not DCERP or the Department. DCAC's can apply for one or more of the following

CONTINUED ON PAGE 4



categories: Facility Inspection, Site Investigation, and Remediation.

What Are The Steps of Investigation And Remediation/Cleanup Activities?

Facility Inspection (FI)

The FI begins the environmental investigation process and includes a determination of Fund eligibility through records review and an on-site inspection to determine compliance with BMPs and gather other data.

Prioritization Investigation (PI)

The PI determines the presence or absence of solvent impacts, establishes a priority ranking for the site, and determines whether additional investigation is needed (similar to a Phase 1 & 2 Environmental Assessment). Phase 1 and 2 assessments are commonly done in conjunction with property transactions. Additional work is scheduled in accordance with the site's priority ranking.

Solvent Impact Assessment (SIA)

The SIA determines the extent and nature of the contamination and presents recommendations for appropriate remedial response actions or other follow-up activities.

Remedial Alternatives Study (RAS)

This step may not be applicable to all DCERP projects. The RAS evaluates technical feasibility, costs, and effectiveness of implementing various remedial approaches.

Remedial Response

Finally, cleanup response activities are conducted. There are many technologies that may be useful in cleaning up contamination from drycleaning solvents. Through the series of studies, and recommendations from the DCAC, DCERP may select one or more technologies to remediate the site. The remedy will be periodically assessed to determine if it is performing as expected, site remediation goals are being achieved,

and the approved remediation action has been completed.

A **Response Complete** letter will be issued to the applicant after all required activities are completed at the site. This letter summarizes the response actions that were conducted and the final site disposition.

In accordance with statutory requirements environmental response actions and associated methods and techniques "shall be cost effective reasonable, and technically feasible."

For More Information Contact:

DCERP/DOR Program Manager
4th Floor, L&C Annex
401 Church Street
Nashville, TN 37243-1538
(615) 532-0900

Or visit our website at

www.state.tn.us/environment/permits/dcerp

Drycleaner Environmental Response Program

4th Floor L&C Annex

401 Church Street

Nashville, TN 37243